IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Bail Appl..No. 6353 of 2007()

CRIME NO.321/07 OF MALA POLICE STATION

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PETITIONERS/ACCUSED 1 AND 2

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1. INNOCENT, AGED 32, S/O LONAPPAN,
PANIKULANGARA HOUSE, ANNAMANADA P.O.,
THRISSUR DISTRICT.

2. MARY, W/O LATE LONAPPAN,
PANIKULANGARA HOUSE, ANNAMANADA P.O.,
THRISSUR DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE,
MALA POLICE STATION, THROUGH THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6353 of 2007

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Dated this the 25th day of October, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1 and 2. There are the only two accused arrayed as yet. Crime was initially registered under the caption 'unnatural death. In the course of investigation, allegations under Sections 498A, 306 and 304B I.P.C. have been included.

2. The marriage took place on 28.8.2005. The young bride was alleged to have committed suicide by hanging on 3.7.2007. Initially it was registered only under Section 174 Cr.P.C. But in the course of investigation, serious doubts and suspicions were raised. The deceased had burn injuries on her person, which quite surprisingly were not noted in the first postmortem certificate. No explanation for such burn injuries suffered by the deceased is forthcoming, though there is an attempt on the part of the petitioners now to contend that the deceased had attempted self immolation earlier. The burned clothes of the deceased, which were available in the house, were clandestinely disposed of allegedly by the second

accused. The petitioners were at large and were absconding immediately following the death of the deceased. The learned counsel for the petitioners submits that the petitioners are innocent and purely on the basis of baseless and unfounded suspicions, allegations are being raised.

3. The learned Prosecutor submits that the available indications strongly indicate that a thorough custodial interrogation of the petitioners is necessary. The presumptions which flow from the unnatural death within seven years of marriage do also stare at the petitioners. There are indications to show that the deceased bride was vexed and harassed with demands to bring further amounts from her parents.

4. The totality of circumstances do persuade me to agree with the learned Prosecutor that there are no features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioners. This I am satisfied is a fit case where the petitioners must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioners appear before the learned

Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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